

(2) Claimant could not reasonably have been expected to have known of such exclusion.

(c) A claimant who is notified that his or her attending physician has been excluded shall have a new right to select a duly qualified physician. See § 10.401(b).

§ 10.457 Reinstatement.

(a) If a physician, hospital, or provider of medical support services or supplies has been automatically excluded pursuant to § 10.451, the person excluded will automatically be reinstated upon notice to the Office that the conviction or exclusion which formed the basis of the automatic exclusion has been reversed or withdrawn. However, an automatic reinstatement shall not preclude the Office from instituting exclusion proceedings based upon the underlying facts of the matter.

(b) A physician, hospital, or provider of medical support services or supplies excluded from participation as a result of an order issued pursuant to this subpart may apply for reinstatement one year after the entry of the order of exclusion, unless the order expressly provides for a shorter period. An application for reinstatement shall be addressed to the Associate Director for Federal Employees' Compensation, and shall contain a concise statement of the basis for the application. The application should be accompanied by supporting documents and affidavits.

(c) A request for reinstatement may be accompanied by a request for oral argument. Oral argument will be allowed only in unusual circumstances where it will materially aid the decisional process.

(d) The Associate Director shall order reinstatement only in instances where such reinstatement is clearly consistent with the ultimate goal of this subpart which is to protect the FECA program against fraud and abuse. To satisfy this requirement the provider must provide reasonable assurances that the basis for the exclusion will not be repeated.

Subpart G—Cases Involving the Liability of a Third Party

§ 10.500 Prosecution of third party action by a beneficiary.

If an injury or death for which benefits are payable under the Act is caused under circumstances creating a legal liability upon some person or persons other than the United States to pay damages, the Office may require the beneficiary to prosecute an action for damages against the third party. When so required, the cause of action shall be prosecuted in the name of the beneficiary.

[52 FR 10522, Apr. 1, 1987]

§ 10.501 Assignment of third party.

If an injury or death for which benefits are payable under the Act is caused under circumstances creating a legal liability upon some person other than the United States to pay damages therefore, the beneficiary shall, if required by the Office assign any right of action he may have to the United States. All such assignments shall be in writing and no such cause of action shall vest in the United States unless and until the assignment is accepted by the Office.

§ 10.502 Refusal to assign or prosecute claim when required; effect.

Refusal on the part of a beneficiary to assign his right of action to the United States or to prosecute an action in his own name when required to do so pursuant to § 10.500 or § 10.501, shall deprive the beneficiary of all rights to benefits under the Act.

§ 10.503 Distribution of damages recovered by beneficiary.

If an injury or death for which benefits are payable under the Act is caused under circumstances creating a legal liability upon a person or persons other than the United States to pay damages and, as a result of claim brought by or settlement made by the beneficiary or by someone acting on the beneficiary's behalf, the beneficiary recovers damages or receives money or other property in satisfaction of the liability on account of that injury or death, the